

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 9, 2003

Agenda ID #3076
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION 00-11-038 ET AL.

This is the draft decision of Administrative Law Judge (ALJ) Wong. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

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Attachment

Decision **DRAFT DECISION OF ALJ WONG** (Mailed 12/9/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (E 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.

Application 00-11-038
(Filed November 16, 2000)

Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)

Application 00-11-056
(Filed November 22, 2000)

Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.

Application 00-10-028
(Filed October 17, 2000)

**OPINION REGARDING WESTERN AREA
POWER ADMINISTRATION INTEREST****Background and Discussion**

In Decision (D.) 03-09-017, Pacific Gas and Electric Company (PG&E) was ordered to remit to the California Department of Water Resources (DWR) the Commission-approved power charge for all of the energy that DWR supplied to meet PG&E's retail load, but which was purportedly used to serve PG&E's load obligations with the Western Area Power Administration (WAPA). Ordering Paragraph 2 of D.03-09-017 directed PG&E to have its shareholders pay interest on the power charge remittance. PG&E was also directed to discuss the interest issue with DWR to determine the appropriate amount of interest that should be paid by PG&E's shareholders to DWR.

In accordance with Ordering Paragraph 2.b. of D.03-09-017, PG&E filed its “Notice Regarding WAPA Interest Issue” on October 20, 2003. In that notice, PG&E stated that it had reached agreement with DWR on the amount of interest to be paid, and that the amount is \$13,148,307.02. On October 29, 2003, PG&E filed a “Supplemental Notice Regarding WAPA Interest Issue.” The supplemental notice stated that the original notice did not correctly set out the agreed upon interest amount. PG&E states that the correct amount is \$13,316,623.77.

The agreed upon interest amount is based on “the monthly weighted average interest rate PG&E earned on short term investments during the period between when it would have made specific remittances to DWR had the remittance rules adopted by D.03-09-017 been in place initially, and when PG&E actually made the WAPA true up remittance pursuant to D.03-09-017 and D.03-09-018.” (Supplemental Notice, p. 2.)

The supplemental notice also states that “PG&E has agreed with DWR to provide the interest amount to DWR within 5 days after a Commission action authorizing PG&E to do so, and has agreed that the penalty provisions of the servicing order would apply if PG&E does not provide the amount to DWR within that time.” (Supplemental Notice, p. 2.) The supplemental notice also states that if the Commission decides on some other date for remitting the WAPA interest amount, that would supercede the payment timing agreement between PG&E and DWR.

In D.03-09-017, we allowed PG&E and DWR “to determine the appropriate amount of interest that should be paid by PG&E’s shareholders for PG&E’s untimely remittances associated with the WAPA load, subject to Commission

approval.” (D.03-09-017, p. 31.) The decision also noted that the servicing order contains specific provisions that address when interest is due.

The interest amount of \$13,316,623.77 has been agreed to by both DWR and PG&E. The interest amount is based on the interest rate that PG&E earned on short term investments during the period between when the power charge remittances to DWR were due. Since DWR and PG&E have agreed to the amount of interest that is owed, and because the amount represents what PG&E was earning on short term investments at the time these remittances were due, we approve the WAPA interest amount of \$13,316,623.77. PG&E’s shareholders shall be responsible for the WAPA interest amount, and PG&E shall remit the amount of \$13,316,623.77 to DWR within five days from today’s date.

Comments on Draft Decision

The draft decision of the assigned Administrative Law Judge (ALJ) was mailed to the parties in accordance with Public Utilities Code Section 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Assignment of Proceeding

Loretta M. Lynch and Geoffrey F. Brown are the Assigned Commissioners, and John S. Wong is the assigned ALJ in this proceeding.

Findings of Fact

1. D.03-09-017 directed PG&E to have its shareholders pay interest on the power charge remittance owed to DWR, and directed PG&E to discuss the interest issue with DWR to determine the appropriate amount of interest that should be paid.

2. PG&E’s supplemental notice states that PG&E and DWR have agreed that the WAPA interest amount is \$13,316,623.77.

3. The WAPA interest amount is based on the monthly weighted average interest rate PG&E earned on short-term investments during the period between when it would have made specific remittances to DWR had the remittance rules adopted by D.03-09-017 been in place initially, and when PG&E actually made the WAPA true up remittance pursuant to D.03-09-017 and D.03-09-018.

4. PG&E has agreed with DWR to pay the interest amount to DWR within five days after a Commission action authorizing PG&E to do so, and if no payment is made, that the penalty provisions of the servicing order will apply.

Conclusions of Law

1. The WAPA interest amount of \$13,316,623.77 should be approved.
2. PG&E should be directed to remit the amount of \$13,316,623.77 to DWR within five days from today's date.

O R D E R

IT IS ORDERED that:

1. The interest amount of \$13,316,623.77, which Pacific Gas and Electric Company (PG&E) and the California Department of Water Resources (DWR) agree is the amount of interest owed on the under-remittance associated with the DWR energy used to serve PG&E's contractual obligation with the Western Area Power Administration, is approved.

2. The shareholders of PG&E shall be responsible for paying the interest amount of \$13,316,623.77 to DWR, and PG&E shall remit such sum to DWR within five days from today's date.

This order is effective today.

Dated _____, at San Francisco, California.